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IN THE

Supreme Court of the United States

No. 273

CHICAGO GREAT WESTERN RAILWAY COMPANY,
a Corporation,

Petitioners,

vs.

LEONARD L. RAMSEY,

Respondent.

RESPONDENT'S BRIEF IN OPPOSITION TO GRANTING CERTIORARI

CARL L. YAEGER,
Counsel for Respondent,
715 Foshay Tower,
Minneapolis, Minnesota.

DAVIS, RERAT, YAEGER & LUSH,
Attorneys at Law,
610 Baker Building,
Minneapolis, Minnesota.

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JURISDICTION

The respondent admits that this Court has jurisdiction to grant a Writ of Certiorari in this case, but he contends that this is not a proper one for the exercise of such jurisdiction and because that is true, the Court should deny certiorari.

STATEMENT OF THE CASE

The statement submitted by the petitioner adequately presents the facts involved in petition for Writ of Certiorari.

I.

THERE IS NO IMPORTANT QUESTION OF FEDERAL LAW

The case of *Johnson v. Chicago, Burlington & Quincy Railroad Company*, Minn. , 66 N.W.2d 763, decided two questions, namely:

1. The doctrine of forum non conveniens could be invoked in our District Courts.
2. Under the facts in the case, the trial court could decline to exercise jurisdiction.

The appellate procedure in this case arises as an aftermath of that decision, only in so far as the particular facts in this case are to be applied to the Court's discretion in accepting or refusing jurisdiction of the case. Once the doctrine is invoked by the highest Court in the state as local law, the question of whether or not to entertain jurisdiction becomes one of the facts in the particular case. The problems arising from the application of the doctrine of forum non conveniens and the use of discretion by the trial court become one of state and local law and not one of federal law. It is respectfully submitted that there is no question of federal law to be decided in the instant case.

Assuming for the sake of the argument that there is one, certainly it cannot be one of substance. An examination of petitioner's cited cases show that they are to be distinguished.

The basic issue of substance in the case of *Missouri v. Mayfield*, 340 U.S. 1, 95 L.Ed. 3, 71 Sup.Ct. 1, was whether or not a state Supreme Court was bound by the Constitution of the United States and federal law to deny the invocation of the doctrine of forum non conveniens.

There, at 95 L.Ed., page 8, this Court said:

> "But, (3), a state may reject the doctrine of forum non conveniens in suits under the Federal Employers

ay deem itself compelled by

Liability Act because it
Federal Law to reject it.

In the case of *Norwood v.*
L.Ed. 789, 75 Sup.Ct. 544, t
not Sec. 1404(a) expanded t
tion, or was limited to the
generally. There was a conf
system on this question.

It is submitted that these
questions of federal law whi
tion here. Here the only or
procedure are the parties th

irkpatrick, 349 U.S. 29, 99
basic issue was whether or
trial court's range of discre-
um non conveniens doctrine
in the Courts of the federal

o cases presented important
is not presented in the peti-
interested in the appellate
selves.

ICT OF DECISIONS

THERE IS NO CON

e decision in the instant case

The petitioner asserts that and state decisions that are
is contrary to certain federa submitted that none of these
cited in his brief; however, inly, if, in any field of law, the
cases are in point here. Cert with all of its attending fac-
field of forum non convenien considered and decided upon
tors to be considered, must n. The Courts can only lay
the facts and merits of its dered and cannot establish a
down the factors to be con ctrine is to be invoked and in
rule to state in one case the rejected.
another the doctrine is to b

Primarily, the federal cas cited were before this Court
on federal questions involved nd not here to re-examine the
facts and the application of t doctrine to those facts in the
case. So, too, were the stat cases of *Johnson v. Chicago,*
Burlington & Quincy Railro d Company, supra, and *May-*
nard v. Chicago and North estern Railway Company, 77
N.W.2d 183, cited by the def ndant.

This Court is being petitio ed here to re-examine the fact
issues and the legal questi of the involved doctrine of

forum non conveniens in the instant case. (See *Fry Roofing Co. v. Wood*, 344 U.S. 157, 97 L.Ed. 168.) There is no conflict in the decisions of this Court with the holding in the instant case.

III.

THE DECISION BELOW IS CORRECT

After an examination of the factors present the Minnesota Supreme Court held that the instant case was squarely within their direction to the lower court to cautiously exercise their discretion, and if the trial courts abused this discretion, relief would be available to this Court.

In the *Johnson* case the Minnesota Supreme Court held:

> "* * * The discretion of the court is one which should be cautiously exercised in the interest of justice only when it appears that it would be more equitable to try the cause of action elsewhere than here.
>
> "If the trial courts abuse their discretion in the border-state cases suggested in the concurring opinion of Mr. Chief Justice Dell, relief will no doubt be available upon petition to this court."

In the instant case the Minnesota Supreme Court said:

> "If we are ever going to grant such relief to a plaintiff from a border state so as to permit trial in Minnesota, it is our further opinion that the fact situation in the instant case justifies it. Here the plaintiff employee lives only 84 miles by rail or 99 miles by highway from Austin. The accident happened at Fort Dodge, 112.2 miles by rail and 142 miles by highway from Austin. Clearly it cannot be said in this day and age with the quick methods of transportation by car that merely because of a state line anyone would be particularly inconvenienced in going that distance any more than it could be said that it would be impractical to try the case in Austin if the plaintiff lived or the accident occurred an equal distance from that city within the State of Minnesota. If we say under the facts of this case that no

relief is available to an employee who seeks to try his case in Minnesota, it is difficult to visualize any situation which would permit relief under the last paragraph of the Johnson case, and its language would then be meaningless."

As we understood the petitioner's brief, his quarrel is that the trial court should have this discretion unbridled by an appellate review. This, of course, is not the law and the appellate review of actions of the trial court are, and should be, subject to the review of the Supreme Court of that state.

The appellate court here had a full understanding of the facts involved and the factors to be applied in the consideration of the doctrine of forum non conveniens and there is no error in the holding of the Supreme Court of the State of Minnesota.

CONCLUSION

The Petition for Certiorari raises no federal question and at best no question of substance for the consideration of this Court. We, therefore, respectfully submit that the Court should deny the Petition for Certiorari.

CARL L. YAEGER,
Counsel for Respondent,
715 Foshay Tower,
Minneapolis, Minnesota.

DAVIS, RERAT, YAEGER & LUSH,
Attorneys at Law,
610 Baker Building,
Minneapolis, Minnesota.